


July 25, 2006

Action

MEMORANDUM

July 21, 2006

TO: County Council

FROM: Jeffrey L. Zyontz, Council Analyst 

SUBJECT: **Action** – ZTA 06-17, Accessibility Improvements - Exemption

PHED Committee Recommendation. On July 17, 2006 the Committee recommended (3-0) that ZTA 06-17 be approved as introduced. The Committee believes that providing an exemption from setback and lot coverage standards for accessibility improvements that do not exceed minimum building code requirements will promote the general welfare of the County. The Committee believes that this ZTA strikes the proper balance between the need for increased accessibility and the desire to maintain zoning standards.

ZTA Background

On May 22, 2006 ZTA 06-17 was introduced on behalf of the County Executive. Councilmembers Praisner and Floreen are also sponsoring this ZTA.

ZTA 06-17 would allow the construction of specified accessibility features that make a one-family house more accessible to people with mobility disabilities. The ZTA proposes a new definition for an accessibility improvement to one-family dwellings. The amendment would then exempt that improvement from setback and lot coverage limits if the improvement does not exceed minimum design specifications.

On June 11, 2006 the Council held a public hearing on ZTA 06-17. The Planning Board and Planning Board staff recommended approval. All other testimony received also recommended approval. One individual who testified recommended increasing the scope of improvements classified as exempt from zoning standards. The suggestion was to allow more than minimum improvements. This individual would also want the ZTA to exempt covered structures from setback and lot coverage standards.

Issues

Any accessibility improvement that may exceed setback and lot coverage standards requires a variance from the Board of Appeals. From the standpoint of some citizens seeking variances, the process is described as costly and time consuming. The Board of Appeals has required proof of a disability to grant such variances. This requirement is a barrier to generally increasing accessibility to one-family dwelling units.

Staff Comments

Although the Americans with Disabilities Act (ADA) does not directly cover one-family houses, the Civil Rights Division of the United States Attorney General's Office notes the following:

Title II of the ADA prohibits discrimination on the basis of disability in the programs, services, and activities of state and local government entities. Title II requires public entities to make reasonable modifications to their policies, practices, and procedures, including their zoning policies, practices, and procedures, when such modifications are necessary to ensure that individuals with disabilities are not subjected to discrimination because of their disabilities. 28 C.F.R. §35.130(b)(7). In the appropriate circumstances, granting a variance to a zoning regulation can constitute a reasonable modification required under Title II. However, a modification need not be made if the public entity can demonstrate that making the modification would fundamentally alter the nature of the program, or cause an undue burden. 28 C.F.R. § 35.150(a)(3).

Zoning restrictions are also covered by the Fair Housing Act, which provides that it is a discriminatory practice to refuse to make a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(b).

While Title II and the Fair Housing Act require reasonable modification of zoning ordinances and procedures, they do not provide a broad exemption from zoning requirements for individuals with disabilities. Individuals with disabilities must generally comply with their local zoning requirements just as non-disabled individuals must comply. When a particular aspect of a zoning ordinance is alleged to be discriminatory, determination of what constitutes a reasonable modification of that aspect is highly fact-specific, requiring a case-by-case analysis. *Crowder v. Kitigawa*, 81 F.3d 1480, 1486 (9th Cir. 1996).

The ZTA as proposed goes beyond federal requirements. It allows increases in accessibility without any proof of a disability. The ZTA would make the variance process unnecessary for many improvements.

The Department of Permitting Services (DPS) could easily administer this ZTA. DPS is aware of the building code's minimum requirements. DPS is not required to make judgments on aesthetics. Individuals who wish to exceed the minimum improvements would be directed to the Board of Appeals for a variance.

This packet contains:

	<u>© number</u>
ZTA 06-17	1-3
Public Hearing Testimony	
Jay Kenney	4
Bruce Dunton	5
Russ Holt	6-7
Melpi Jeffries	8
Oliver Brown	9
Planning Board & Staff Reports	10-20

f:\zyontz\zta\zta06-17\action memo zta 06-17.doc

Zoning Text Amendment No: 06-17
Concerning: Accessibility improvement
exemption
Draft No. & Date: 1 – 5/18/06
Introduced: May 25, 2006
Public Hearing: 7/11/06; 1:30 PM
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at the request of the County Executive and Councilmembers Praisner and
Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- defining accessibility improvements;
- exempting minimum accessibility improvements from setback and lot coverage limits; and
- generally amending exemptions from standards for accessibility improvement.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1 “Definitions”

Add a new DIVISION

DIVISION 59-B-7 “EXEMPTIONS FOR ACCESSIBILITY
IMPROVEMENTS”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
*Underlining indicates text that is added to existing laws
by the original text amendment.*
*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*
*Double underlining indicates text that is added to the text
amendment by amendment.*
*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

OPINION

On May 22, 2006 ZTA 06-17 was introduced on behalf of the County Executive. Councilmembers Praisner and Floreen are also sponsoring this ZTA.

ZTA 06-17 would allow the construction of specified accessibility features that make a one-family house more accessible to people with mobility disabilities. The ZTA proposes a new definition for an accessibility improvement to one-family dwellings. The amendment would then exempt that improvement from setback and lot coverage limits, if the improvement does not exceed minimum design specifications.

The Planning Board and Planning Board staff recommended approval of ZTA 06-17 as introduced.

On June 11, 2006 the Council held a public hearing on ZTA 06-17. All testimony received recommended approval. One individual who testified recommended increasing the scope of improvements classified as exempt from zoning standards. The suggestion was to allow more than minimum improvements. This individual would also want the ZTA to exempt covered structures from setback and lot coverage standards.

On July 17, 2006 the Committee recommended (3-0) that ZTA 06-17 be approved as introduced. The Committee believes that providing an exemption from setback and lot coverage standards for accessibility improvements that do not exceed minimum building code requirements will promote the general welfare of the County. The Committee believes that this ZTA strikes the proper balance between the need for increased accessibility and the desire to maintain zoning standards.

The District Council reviewed Zoning Text Amendment No. 06-17 at a worksession held on July 25, 2006. The Council agreed with the Committee recommendation to approve ZTA 06-17.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 06-17 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 In this Chapter, the following words and phrases have the meaning indicated:

5 * * *

6 **Accessibility Improvement:** An unroofed and open structure, including a ramp
7 and chairlift that: (1) allows a person with a physical disability access to a one-
8 family dwelling; and (2) is exterior to the one-family dwelling.

9 * * *

10 **Sec. 2. DIVISION 59-B-7 is added as follows:**

11 **DIVISION 59-B-7. EXEMPTIONS FOR ACCESSIBILITY**
12 **IMPROVEMENTS.**

13 **59-B-7.1. Accessibility Improvement.**

14 An accessibility improvement is not subject to setback, or lot coverage limitations
15 if the size of the accessibility improvement does not exceed the minimum design
16 specifications in the Maryland Accessibility Code and Montgomery County
17 Building Code.

18 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
19 Council adoption.

20
21 This is a correct copy of Council action.

22
23
24
25 _____
26 Linda M. Lauer, Clerk of the Council

27 f:\land use\zta 06---accessibility improvements.doc

Zoning Text Amendment 06-17, Accessibility Improvements – Exemption Public Hearing
Testimony on behalf of County Executive Douglas Duncan
by John Kenney, Chief, Aging and Disability Services
Montgomery County Department of Health and Human Services
July 11, 2006

Good afternoon, my name is Jay Kenney, Chief of Aging and Disability Services in the Department of Health and Human Services. I am here to today to testify on behalf of County Executive Doug Duncan in strong support of this amendment.

First I want to thank the County Council for introducing this Zoning Text Amendment (ZTA) 06-17 at the request of the County Executive, and to the Planning Board which voted unanimously to support this amendment last Thursday.

Relief from zoning standards for accessibility improvements was initiated and recommended by the County's Commission on People with Disabilities. I want to thank the Commission on People with Disabilities which has been working on promoting greater housing accessibility over the past several years, and in particular to Cindy Buddington, who first brought housing accessibility to my attention while she served as chair of the group. I would also like to thank the Commission on Aging for their support of this amendment.

Thank you all for this opportunity to make Montgomery County more accessible to people with disabilities and seniors. This is an important step in the direction of promoting greater access in our County's housing stock.



3

COMMISSION ON AGING

TESTIMONY OF THE COMMISSION ON AGING
PUBLIC HEARING
ZONING TEXT AMENDMENT 06-17
ACCESSIBILITY IMPROVEMENTS – EXEMPTION

Good Afternoon, I am Bruce Dunton, member of the Commission on Aging. The Commission is unanimous in its support for this zoning text amendment which will greatly assist the senior who needs to make external modifications to a home in order to be able to continue living in that home.

This amendment removes the costly and time consuming Special Appeals process for the construction of an open, unroofed structure such as a ramp or chairlift which will allow a person with a physical disability to access a single-family dwelling.

The March 2005, 55+ Housing Preference Survey conducted by Park and Planning found that the majority of county residents age 55 and older plan to remain in their current residence for the rest of their lives. For residents who wish to age in place, home modifications are inevitable. Over two-thirds of older residents reside in single-family detached homes with a median age of 35 years. Homes built in the 1970's and earlier were not constructed with accessibility in mind.

This zoning text amendment facilitates the capacity of older county residents to age in place, by easing the setback or lot coverage limitations on the construction of external modifications needed for accessibility and removing the financial and time consuming burden of obtaining permission from the Board of Appeals prior to construction.

Thank you for this opportunity to express the views of the Commission on Aging on this matter. This zoning text amendment is an important step in the direction of creating an environment for successful aging in Montgomery County.



5

Department of Health and Human Services



4

**Testimony of the Montgomery County Commission on People with Disabilities
Zoning Text Amendment 06-17
Accessibility Improvements - Exemption
Before the Montgomery County Council
July 11, 2006**

Good afternoon. My name is Russ Holt, and I serve as Vice-chair of the Montgomery County Commission on People with Disabilities. The Commission is unanimous in its support of this Zoning Text Amendment that will benefit our County's residents and visitors who have mobility impairments.

Based on Census data, it's estimated that there are over 30,000 residents in the County who use wheelchairs, canes or walkers. And our County's aging population is growing faster than any jurisdiction in the State. Veterans with disabilities are returning from Iraq and Afghanistan every day, not to mention the more than 70,000 veterans who reside in the County.

This amendment would permit people to modify access to their homes "by right," rather than requiring them to submit to the financial and emotional burdens of permits and zoning variances through the Board of Appeals. It would allow people to be able to modify their homes more quickly in response to an accident or health condition. The Amendment would also promote greater accessibility in our existing single family housing stock, both townhomes and detached housing.

The Commission believes that this amendment addresses three issues that are critically important to our County and its residents. Please allow me to address these critical areas.

First, if people with mobility impairments cannot come and go from their own homes, and access the homes of their families, friends and neighbors, then they cannot participate in the life of the community – whether it's to attend a precinct meeting, a birthday celebration or any other civic, cultural or social event. We encourage everyone renovating their home to consider making at least one accessible entrance either at the front, back, deck or garage entrance. Therefore, the Commission believes that this Amendment is a **Public Policy** issue.

Second, we are a community with an increasing number of seniors and studies have shown that most would prefer to live in their own homes, to the extent that it is possible. However, many seniors with mobility impairments are literally prisoners in their own homes as they are unable to come and go as they may need or desire. Further, in the event of an emergency, their lives are at risk, as well as the lives of the rescue personnel who cannot expediently remove them from danger because of an architectural/structural limitation in their homes. Therefore, the Commission believes that this Amendment is a **Public Safety** issue.

If people can eliminate the architectural barriers that prevent them from coming and going to and from their own homes, whether out of necessity or convenience then we are eliminating or delaying the need for premature institutionalization or the cost of assisted living expenses which

often comes at the public's expense. It is also much less costly to modify a home, rather than to sell a home and move based on accessibility needs. Therefore, the Commission also believes that this Amendment is an **Economic** issue.

The Commission would like to especially note that this Amendment does not create a "carte blanche" to make home modifications as a resident pleases, without approval or compliance with building code standards. Rather, it specifically addresses unroofed, open structures, such as ramps and chair lifts that do not exceed the design specifications of the Maryland Accessibility Code and the Montgomery County Building Code which enhances the lives of individuals with disabilities.

This Amendment does not relieve homeowners from securing the concurrence of their homeowners' association. However, it is the hope of the Commission that the Council, following upon its legislative history, would make it clear that the County does not condone or tolerate unnecessary or arbitrary determination or regulation which impede a resident's request to make one's home accessible.

We hope that the Council will quickly adopt this amendment. It promotes the intent of greater fair housing and equal access. It provides a wonderful opportunity to expand the openness of our community, actively support fair housing principles and extend to people with mobility impairments opportunities to become more active and vibrant participants in the life of our County.

This Amendment would make our County a leader in the State to have such legislation, and other Counties are actively seeking ways to promote greater accessibility in single family homes, as well. Fairfax and Anne Arundel Counties already have similar accessibility exemptions.

Thank you for your support and serious consideration of this Amendment, and on behalf of the Commission, I'd like to offer you any further assistance or information you might need regarding this matter.



THE LEAGUE OF WOMEN VOTERS *of Montgomery County, MD, Inc.*

TESTIMONY BEFORE THE MONTGOMERY COUNTY COUNCIL: ZONING
TEXT AMENDMENT No: 06-17

July 11, 2006

Good evening. I am Melpi Jeffries, speaking for Nancy Soreng, President of the League of Women Voters of Montgomery County, MD (LWVMC). Housing issues have been a focus of LWVMC research, study, discussion and consensus leading to position statements since the early sixties. In 2005, LWVMC studied and reached consensus on a number of housing issues including housing for residents with special needs and home accessibility. Accordingly, LWVMC supports Montgomery County policies and programs to provide shelter and services to all individuals with special needs, including individuals with special needs due to mental illness, homelessness, physical disability, developmental disability and age. Further we support the production of barrier free or accessible housing as a voluntary effort on the part of the home-building industry, encouraged by a combination of incentives such as an award program and some mandatory measures.

ZTA# 06-17 will facilitate the accessibility of one-family dwellings by making it easier for seniors and people with disabilities to modify their homes. While accessible features are more readily incorporated during the original construction of homes, the trend of "aging in place" often necessitates modifications. ZTA# 06-17 eliminates the costly and time-consuming administrative barrier of the zoning appeals process, allowing those with disabilities to modify their homes when it becomes necessary. The amendment applies only to accessibility improvements that do not exceed the minimum design specifications in the Maryland Accessibility Code and Montgomery County Building Code, decreasing the likelihood of any negative impact on adjacent properties.

While this amendment will not result in the production of barrier free or accessible housing, it is a small step in that direction and will encourage Montgomery County seniors and residents with disabilities to take advantage of the "Accessible Homes 4 Seniors" program recently announced by the State of Maryland. LWVMC urges the adoption of ZTA#06-17. Thank you for your attention.

8

Testimony of the Interagency Fair Housing Coordinating Group
Zoning Text Amendment 06-17
Accessibility Improvements – Exemption
Montgomery County Council
6/11/06

The Interagency Fair Housing Coordinating Group (the IFHCG) would like to add its voice to the chorus of community, government and advocacy groups supporting the proposed Zoning Text Amendment. The Committee concurs with the Montgomery Commission on People with Disabilities that this amendment will benefit the County's residents and visitors who have mobility impairments.

The goal of the IFHCG has always been to promote fair housing in the County. One critical issue in the fair housing community is the availability of accessible housing for those who need it. Currently, there are an estimated 30,000 County residents who use wheelchairs, walkers or canes. As the County's population ages, those benefiting from greater accessibility will only increase. Allowing property owners to modify their property to remove architectural barriers will allow all residents and visitors to enhance their quality of life. In addition, the Amendment will serve to increase the inventory of accessible housing in the County for those who may be seeking such housing in the future.

Allowing property owners to modify their property to remove architectural barriers serves another, perhaps less tangible benefit. It permits those with mobility impairments to be visible and viable members of our communities. This will serve to enrich the lives all of our residents.

The IFHCG would like to thank the County Council and the Office of the County Executive for addressing this issue.

Respectfully Submitted,

Oliver Brown, Chairperson
Interagency Fair Housing Coordinating Group

Marissa Wills
Fair Housing Program Manager
Office of Human Rights
Staff Support, Interagency Fair Housing Coordinating Group



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Chairman, Montgomery County Planning Board

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

July 6, 2006

TO: The County Council for Montgomery County, Maryland, sitting as the
District Council for the Maryland-Washington Regional District in
Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Planning Board on Zoning Ordinance Text Amendment No. 06-17

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Ordinance Text Amendment No. 06-17 at its regular meeting on July 6, 2006. By a vote of 4-0, the Board recommends that the proposed text amendment be approved as submitted and included in the attached technical staff report.

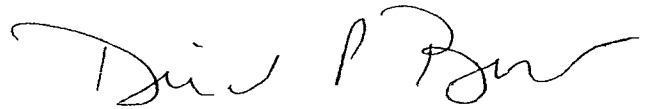
The proposed zoning text amendment would establish a definition for “accessibility improvements” for one-family dwellings. The text amendment further exempts the improvements from setback or lot coverage limitations if the improvements do not exceed minimum design specifications in the Maryland Accessibility Code and Montgomery County Building Code. The text amendment would also add zoning flexibility and eliminate the need for property owners to obtain a variance in order to add unroofed and open structures, including ramps and chairlifts, for persons with physical disabilities to access a one-family dwelling.

The Board agrees with the intent of the text amendment and believes that the language that prohibits the accessibility improvement from exceeding the minimum design specifications in the Maryland Accessibility Code and the County Building Code provides additional protection from unnecessarily establishing oversized structures in the front yard. As such, the character of the residential area is maintained.

10

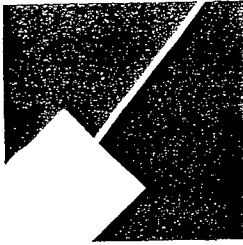
CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on a motion by Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Bryant and Wellington, Vice-Chair Perdue and Chairman Berlage voting in favor of the motion, and with Commissioner Robinson being absent from the meeting, at its regular meeting held in Silver Spring, Maryland, on Thursday, July 6, 2006.



Derick Berlage
Chairman

DB:gr



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.orgMCPB
Item #16
7/06/06

DATE: June 30, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To define accessibility improvements; to exempt minimum accessibility improvements from setback and lot coverage limits; and generally to amend exemptions from standards for accessibility improvements

TEXT AMENDMENT: No. 06-17
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: District Council at the request of the County Executive
INTRODUCED DATE: May 26, 2006
PLANNING BOARD REVIEW: July 6, 2006
PUBLIC HEARING: July 11, 2006

STAFF RECOMMENDATION: APPROVAL

PURPOSE OF THE TEXT AMENDMENT

To define accessibility improvements; to exempt minimum accessibility improvements from setback and lot coverage limits; and generally to amend exemptions from standards for accessibility improvements

BACKGROUND/ANALYSIS

The County Executive, on behalf of the County's Commission on People with Disabilities, requested a Zoning Text Amendment to allow for accessibility features that make a home more accessible to people with mobility disabilities. The text amendment establishes a definition for "accessibility improvements" for one-family dwellings. The text amendment further exempts the improvements from setback or lot coverage limitations if the improvements do not exceed

minimum design specifications in the Maryland Accessibility Code and Montgomery County Building Code. The text amendment would add zoning flexibility and eliminate the need for property owners to obtain a variance in order to add unroofed and open structures, including ramps and chairlifts, for persons with physical disabilities to access a one-family dwelling. The proposed accessibility improvement pertains to structures exterior to a one-family dwelling.

The proposed language included in Section 59-A-2.1 and in new Section 59-B-7.1 is as follows:

59-A-2.1. Definitions.

In this Chapter, the following words and phrases have the meaning indicated:

* * *

Accessibility Improvement: *An unroofed and open structure, including a ramp and chairlift that: (1) allows a person with a physical disability access to a one-family dwelling; and (2) is exterior to the one-family dwelling.*

* * *

Sec. 2. DIVISION 59-B-7 is added as follows:

DIVISION 59-B-7. EXEMPTIONS FOR ACCESSIBILITY IMPROVEMENTS.

59-B-7.1. Accessibility Improvement.

An accessibility improvement is not subject to setback, or lot coverage limitations if the size of the accessibility improvement does not exceed the minimum design specifications in the Maryland Accessibility Code and Montgomery County Building Code.

Staff has no objection to allowing accessibility features that make a home more accessible to people with mobility disabilities. The language that prohibits the accessibility improvement from exceeding the minimum design specifications in the Maryland Accessibility Code and the County Building Code provides additional protection from unnecessarily establishing oversized structures in the front yard. As such, the character of the residential area is maintained. Further, staff research of several surrounding jurisdictions (Fairfax County and Arlington County in Virginia and Anne Arundel County, Maryland) indicates that accessibility improvements in these locations are exempt from bulk regulations (setbacks and lot coverage).

RECOMMENDATION

The staff recommends approval of the proposed text amendment as submitted and included in Attachment 1.

GR

Attachments

1. Proposed Text Amendment 06-17
2. Setback Regulations for Several Surrounding Jurisdictions

Zoning Text Amendment No: 06-17
Concerning: Accessibility improvement
exemption
Draft No. & Date: 1 – 5/18/06
Introduced: May 26, 2006
Public Hearing: 7/11/06; 1:30 PM
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- defining accessibility improvements;
- exempting minimum accessibility improvements from setback and lot coverage limits; and
- generally amending exemptions from standards for accessibility improvement.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1 “Definitions”

Add a new DIVISION

DIVISION 59-B-7 “EXEMPTIONS FOR ACCESSIBILITY
IMPROVEMENTS”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 Sec. 1. DIVISION 59-A-2 is amended as follows:

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 In this Chapter, the following words and phrases have the meaning indicated:

5 * * *

6 **Accessibility Improvement:** An unroofed and open structure, including a ramp
7 and/or chairlift that: (1) allows a person with a physical disability access to a one-
8 family dwelling; and (2) is exterior to the one-family dwelling.

9 * * *

10 Sec. 2. DIVISION 59-B-7 is added as follows:

11 **DIVISION 59-B-7. EXEMPTIONS FOR ACCESSIBILITY**
12 **IMPROVEMENTS.**

13 **59-B-7.1. Accessibility Improvement.**

14 An accessibility improvement is not subject to setback[[,]] or lot coverage
15 limitations if the size of the accessibility improvement does not exceed the
16 minimum design specifications in the Maryland Accessibility Code and
17 Montgomery County Building Code.

18 Sec. 2. **Effective date.** This ordinance takes effect 20 days after the date of
19 Council adoption.

20
21 This is a correct copy of Council action.

22
23
24
25 _____
26 Linda M. Lauer, Clerk of the Council

27 f:\land use\zta 06---accessibility improvements.doc

Anne Arundel County

SUBTITLE 3. BULK REGULATIONS

§ 18-2-301. Setbacks.

(a) **Lot in more than one district.** A lot located in more than one zoning district shall comply with the setback requirements applicable to the district in which the majority of the property is located.

(b) **Certain architectural features.** An architectural feature that does not contain floor area, such as an areaway, bay window, greenhouse window, chimney, cornice, eave, sill, steps required for access, or stoop that does not exceed three feet by three feet, may extend no more than three feet into a required setback and be located no closer than five feet from any lot line. For purposes of this subsection, "areaway" means an uncovered subsurface space adjacent to a structure, such as an entrance to a basement.

(c) **Open fire escapes.** An open fire escape may extend no more than five feet into a required setback and be no closer than five feet from any lot line.

(d) **Decks.** An open deck attached to a dwelling unit may project no more than 10 feet into a rear setback so long as the deck is located at least three feet from the lot line.

* (e) **Certain uses or structures.** The following uses or structures need not comply with setback requirements contained in this article and are not included in determining requirements relating to maximum coverage by structures: access ramps to accommodate a person under disability, driveways, paved or gravel at-grade surfaces, fences, noise barriers or noise walls, signs, walkways eight inches or less above grade, and walls.

(f) **Expansion of dwellings.** A single-family detached dwelling on a lot that does not meet the area, width, or coverage requirements of this article or a dwelling that does not meet the setback requirements of this article may be expanded if the expansion is set back at least 25 feet from the front and rear lot lines and seven feet from side lot lines.

Fairfax County, VA

GENERAL REGULATIONS

- D. Bay windows, oriels, and chimneys, none of which are more than ten (10) feet in width, may extend three (3) feet into any minimum required yard, but not closer than five (5) feet to any lot line.
 - E. Carports may extend five (5) feet into any minimum required side yard, but not closer than five (5) feet to any side lot line.
 - * F. An accessibility improvement may extend into any minimum required yard.
2. The following shall apply to any deck attached to a single family detached dwelling:
- A. Any open deck with no part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
 - (1) Front yard: 6 feet, but not closer than 14 feet to a front lot line and not closer than 5 feet to any side lot line
 - (2) Side yard: 5 feet, but not closer than 5 feet to any side lot line
 - (3) Rear yard: 20 feet, but not closer than 5 feet to any side or rear lot line
 - B. Any open deck with any part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
 - (1) Front yard: No extension
 - (2) Side yard: No extension

Arlington County, VA

relating to vision clearance are maintained. No fence exceeding four (4) feet in height shall be placed within three (3) feet of any public right-of-way. This provision shall not be interpreted to prohibit the erection of any open mesh type fence enclosing any school or playground. (12-10-77)

- f. The zoning administrator shall permit construction of benches and shelters for passengers of public transportation facilities even though such construction would otherwise violate setback and yard requirements of this section of the zoning ordinance when he is requested by a public authority to permit such construction, and when satisfactory evidence that such construction would not have an adverse effect on automobile and pedestrian traffic safety is presented to him. (10-24-73)

- g. The provisions of this section shall not preclude construction, within applicable height limits, of an addition over an existing one-family dwelling encroaching on a required setback or yard area provided there is no more of an encroachment into the required setback or yard than that of the existing wall below it, and providing that new construction may not take place over encroaching garages or porches. (11-20-76)

- * h. Ramps and other structures or equipment provided to comply with the accessibility requirements for individuals with disabilities in the Virginia Uniform Statewide Building Code (VUSBC), or to provide access for individuals with disabilities to any building or structure which is exempt from said accessibility requirements, may extend, to the extent reasonably necessary, into any minimum required setback area, yard or court.

4. *Vision Clearance:* On any corner lot in an "R" or "RA" District there shall be no planting, structure, retaining wall, fence, shrubbery or obstruction to vision between a height of three (3) feet and a height of ten (10) feet above the curb level within the triangle formed by the street right-of-way lines and a line connecting said street lines twenty-five (25) feet from their intersection. On any corner lot in a "C" or "M" District, no building or obstructions shall be permitted between a height of one (1) foot and a height of ten (10) feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting said street lines ten (10) feet from their intersection.

5. *Courts:*

- a. An "outer court" with window openings shall have a depth not more than one and one-half (1 1/2) times its width.
- b. An "inner court" shall not have any horizontal dimension, measured at right angles to any wall with window openings, which is less than the height of the building above the floor level of the story containing such openings; but in no case shall the width be less than twenty (20) feet. No other dimension of such court shall be less than one-third (1/3) the height of the building above the floor level of the lowest story served by such court, but in no case shall the width be less than ten (10) feet.

6. *Open Spaces for Multiple Building Projects:* For projects having more than one (1) main building, the front setback, side and rear yard requirement shall apply along the boundary lines of the project. The minimum distances between the main buildings within the project shall be the sum of the side yard requirements between the respective buildings for each building as though it were located on a separate lot. Multiple-family dwelling projects which are less than thirty-five (35) feet in building height shall have a minimum distance between main buildings of twenty (20) feet. Except in "R" Districts, these regulations shall also apply to all town house projects and the setback and yard requirements for individual lots within the project are not applicable.

(Ord. No. 82-38, 9-11-82; Ord. No. 94-26, 11-19-94; Ord. No. 00-30, 11-21-00; 3-18-03)